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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,363	10/30/2003	Wayne H. Hanson	1-24778	7882
4859 7590 06/09/2009 MACMILLAN SOBANSKI & TODD, LLC ONE MARITIME PLAZA FIFTH FLOOR 720 WATER STREET TOLEDO, OH 43604-1619				
EXAMINER				
IDELL, JOSEPH T				
ART UNIT		PAPER NUMBER		
3636				
MAIL DATE		DELIVERY MODE		
06/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/697,363

**Applicant(s)**

HANSON ET AL.

**Examiner**

JOSEPH F. EDELL

**Art Unit**

3636

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3, 4, 6, 14, 15, 20-25 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 4, 6, 14, 15, 20-25 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 4, 6, 14, 15, 20-25, 27 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 20, the phrase “that is positioned to be at the anatomical hip pivot point of the user of the seating system” is unclear rendering the scope of the claim indefinite.

Regarding claim 20, the phrase “the leg support pivot point being positioned to be at the anatomical knee pivot point of the user of the seating system” is unclear rendering the scope of the claim indefinite.

Regarding claim 22, the phrase “that is positioned to be at the anatomical hip pivot point of the user of the seating system” is unclear rendering the scope of the claim indefinite.

Regarding claim 22, the phrase “the leg support pivot point being positioned to be at the anatomical knee pivot point of the user of the seating system” is unclear rendering the scope of the claim indefinite.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 14, 20, and 27, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,361,446 to Conner et al. in view of U.S. Patent No. 6,086,086 to Hanson et al.

Conner et al. disclose a seating system that is basically the same as that recited in claims 3, 14, 20, and 27, as best understood, except that the base lacks a tilt-in-space block and the system lacks a seating shell base with a pivot post and capable of movement on wheels, as recited in the claims. See Figures 1-9 of Conner et al. for the teaching that the seating system has a base 4, a seat tray (member supporting seat parts 45,46) positioned in a seating shell base, a sliding mechanism 21 configured to mount the seat tray for forward and rearward sliding movement in a single plan with respect to the base in an inherently low friction manner, a seat back 22 pivotally mounted relative to the seat tray at a seat back pivot point, a leg support 55,56 pivotally mounted with respect to the seat tray and depending from the seat tray wherein the sliding mechanism is configured with sufficiently low friction to enable the user to experience extension tone with little resulting resistance to the forward movement of the seat tray and little resulting resistance to pivoting of the leg support, the seating system is configured for forward movement of the seat tray and pivoting of the leg support

caused by tone extension of the user without requiring manual operation, the seat back is connected to a back support member, and downward movement of the back support member in a substantially vertical direction causes the seat back to pivot at the seat tray thereby reclining the seat back and causing the seat tray to slide forward with respect to the base.

Hanson et al. show a seating system similar to that of Conner et al. wherein the seating system has a seat cushion (see column 3, lines 12-13) positioned in a seating shell base 82 (see Fig. 10) that is provided with a pivot post 62 and a guide pin 63, a back rest shell 90 (see Fig. 1) slidably engaging an inner shell 98, a base 12 (Fig. 2) with a tilt-in-space block 34 including a guide slot 58 configured to receive the guide pin such that the guide slot is T-shaped with a straight upper portion and an arcing lower portion, and a pivot post cradle at an uppermost portion of the guide slot. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Conner et al. such that the seat tray is positioned in a seating shell base that is provided with a pivot post and a guide pin, the back rest has an inner sliding shell, and the base includes a tilt-in-space block with a guide slot configured to receive the guide pin wherein the guide slot is T-shaped with a straight upper portion and an arcing lower portion, and a pivot post cradle located at an uppermost portion of the guide slot, such as the seating system disclosed by Hanson et al. One would have been motivated to make such a modification in view of the suggestion in Hanson et al. that the seating shell base and tilt-in-space block in the

base configuration allows the seat tray to be tiltable relative to the base, and the sliding back rest inner shell provides height adjustment.

Claims 4, 6, and 21-24, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Conner et al. in view of Hanson as applied to claims 3, 14, 20, and 27, as best understood above, and further in view of U.S. Patent No. 6,488,332 B1 to Markwald.

Conner et al., as modified, disclose a seating system that is basically the same as that recited in claims 4, 6, and 21-24, as best understood, except that the system lacks a biasing element, as recited in the claims. Markwald shows a seating system similar to that of Conner et al. wherein the seating system has a seat tray 7, and a biasing element 14 connected relative to the base and the seat tray and configured to store energy and have a damping effect upon application of force by a user to move the seat tray forward and a configured to release energy when the user relaxes to automatically move the seat tray rearward. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seating system of Conner et al. to include a biasing element connected relative to the base and the seat tray wherein the biasing element stores energy and has a damping effect upon application of force by a user to move the seat tray forward and releases energy when a user relaxes to automatically move the seat tray rearward, such as the seating system disclosed by Markwald. One would have been motivated to make such a modification in view of the suggestion in Markwald that the biasing compels the seat tray back to its original position.

Claims 15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conner et al. in view Hanson et al. as applied to claims 3, 14, 20, and 27, as best understood above, and over Conner et al., as modified, in view of Markwald as applied to claims 4, 6, and 21-24, as best understood above, and further in view of U.S. Patent No. 327,775 to Dodge.

Conner et al. disclose a seating system that is basically the same as that recited in claims 15 and 25, as best understood, except that the seat back lacks a back support member moving downward and a locking mechanism, as recited in the claims. Dodge shows a seating system similar to that of Conner et al. wherein the seating system has a base *E* (see Fig. 1), a seat back *A* connected to a back support member *H* such that downward movement of the back support member in a substantially vertical direction causes the seat back to pivot at the seat tray to recline the seat back, and a locking mechanism *a* supported with respect to the base. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Conner et al. such that the seat back has a locking mechanism supported with respect to the base, such as the seating system disclosed by Dodge. One would have been motivated to make such a modification in view of the suggestion in Dodge that the seat back configuration provides a slideably adjustable seat back that is removably coupled to the base.

***Response to Arguments***

Applicant's arguments filed 26 January 2009 have been fully considered but they are not persuasive. With respect to the 35 U.S.C 112, second paragraph rejection of claims 3, 4, 6, 14, 15, 20-25, and 27, Applicant argues that the pertinent limitations of claims 20 and 22 are definite because one of ordinary skill in the art would know that knees and hips of the user have well defined anatomical pivot points that establish rotational centerlines. Examiner agrees that a single, specific user of a seating system may have well defined knee and hip anatomical pivot points. However, claims 20 and 22 recite that the location of the seat back pivotal mounting and that the location of the leg support pivotal mounting is contingent upon the location of the user's anatomical hip pivot point and the user's anatomical knee pivot point, respectively. Users of the seating system each have unique body dimensions that necessarily depend upon each user's age, height, sex, and body type. Because of the wide variation in the location of the seta back and leg support pivotal mountings are a function of each user's age, height, sex, and body type, the meets and bounds of claims 20 and 22 are not clearly set forth rendering the scope of the claims unascertainable. In support of Applicant's arguments regarding the 35 U.S.C. 112, second paragraph, rejection, Applicant filed an affidavit under 37 CFR 1.132 on 26 January 2009. This affidavit is insufficient to overcome the 35 U.S.C. 112, second paragraph, rejection of claims 3, 4, 6, 14, 15, 20-25, and 27 because: the facts presents are not germane to whether one of ordinary skill in the art would understand the task of determining the specific user's anatomical hip and knee pivots points and the dimension the seat back and support pivotal mountings



as a function of the user's hip and knee pivots points so those mountings will be located at the user's specific hip and knee pivot points. Upon consideration of Applicant's arguments, Examiner maintains the 35 U.S.C. 112, second paragraph rejection of claims 3, 4, 6, 14, 15, 20-25, and 27.

With respect to the 35 U.S.C. 103(a) rejections of claims 3, 4, 6, 14, 20-24, and 27, as best understood, Applicant argue that Conner et al. fail to teach or suggest the leg support be mounted in a manner that allows the leg support to pivot as a user experiences extension tone because Conner et al.'s disclose that an operator, and not the seated user, controls movements of the seat components. Applicant's argument is not persuasive. With respect to Conner et al.'s seating system, the user is capable of controlling movement of the seat components in the event the user is also the operator. In addition, the seat components of Connor et al.'s seating system allow the leg support to pivots as the user experiences extension tone when the foot levers are disengaged to allow for free flow of water in the cylinders. Moreover, please note that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In the combination of Conner et al. and Hanson et al., the seating system would inherently have a leg support mounted in a manner that allows the leg support to pivot as the user experiences extension tone. In the combination of Conner et al., Hanson et al., and Markwald, the seating system would inherently have a leg support mounted in a manner that allows the leg support to pivot as the user experiences extension tone.

Upon consideration of Applicant's arguments, Examiner maintains the rejections of claims 3, 4, 6, 14, 15, 20-25, and 27, as best understood.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/

Primary Examiner, Art Unit 3636

June 10, 2009